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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

SCOTTSDALE INSURANCE)	Case No. CV 15-00436 DDP (FFMx)
COMPANY,)	
)	ORDER RE MOTION TO STAY
Plaintiff,)	PROCEEDINGS
)	
v.)	[Dkt. No. 14]
)	
NATIONWIDE MEDICAL, INC.,)	
HOWARD SIEGEL, DAVID SIEGEL,)	
)	
Defendants.)	
_____)	

Presently before the Court is Defendants' motion to stay proceedings pending the resolution of the underlying state court case in this matter. Having heard oral arguments and considered the parties' submissions, the Court adopts the following order.

I. BACKGROUND

Defendants in this case are also defendants in a state-court lawsuit by a minority shareholder in Nationwide Medical, Inc. ("Nationwide"), John Calligeros. He alleges that Defendants Howard and David Siegel breached their duties and committed improprieties as to the corporation. (Compl. ¶¶ 21-25, 29; Pl.'s RJN, Ex. B.) Plaintiff, an insurance company, issued a "Business and Management

1 Indemnity" policy effective December 1, 2012, that covered both
2 Nationwide and its directors and officers as to certain kinds of
3 "losses" incurred in defending certain kinds of "claims" related to
4 management of the business. (Compl., Ex. A.)

5 Plaintiff seeks a declaratory judgment that it is not required
6 to indemnify Defendants in the underlying lawsuit, because the
7 policy excludes so-called "Insured versus Insured" claims.

8 Plaintiff alleges that Calligeros was an officer and director of
9 Nationwide and that he sues the Siegels, who were also officers
10 and/or directors, and the company itself. All parties to the case
11 are therefore "insureds" under the policy, and so, according to
12 Plaintiff, the policy excludes from coverage the claims in
13 Calligeros's lawsuit.

14 **II. LEGAL STANDARD**

15 A federal district court may, but need not, grant declaratory
16 judgment as to the "rights and other legal relations of any
17 interested party seeking such declaration." 28 U.S.C. § 2201(a).
18 However, the court has broad discretion to stay actions in favor of
19 pending state court proceedings involving the same issues and
20 parties, in order to avoid gratuitous interference with the orderly
21 and comprehensive disposition of a pending state action that
22 presents the same issues. See Brillhart v. Excess Ins. Co. of
23 America, 316 U.S. 491, 495 (1942). The purpose of a stay is to
24 "avoid having federal courts needlessly determine issues of state
25 law," "discourage litigants from filing declaratory judgment
26 actions as a means of forum shopping," and "avoid[] duplicative
27 litigation."

1 In determining whether to grant a stay, courts will consider
2 whether a declaratory action will settle all aspects of the
3 controversy, whether a declaratory judgment would clarify the legal
4 relations at issue, whether the declaratory action is being used to
5 obtain an unfair advantage (especially as to res judicata), and
6 whether the use of a declaratory action will result in entanglement
7 between the federal and state court systems. Government Employees
8 Ins. Co. v. Dizol, 133 F.3d 1220, 1225 n. 5 (9th Cir. 1998).
9 Several of these factors are implicated when there is a risk of
10 inconsistent factual determinations between the state and federal
11 courts. See, e.g., Maryland Cas. Co. v. Witherspoon, 993 F. Supp.
12 2d 1178, 1185 (C.D. Cal. 2014) ("[T]he Court finds that this
13 overlap in issues weighs heavily against allowing Plaintiff's
14 declaratory judgment action to go forward, because it entangles the
15 Court with the underlying state court action, as well as
16 result[ing] in duplicative litigation.").

17 "In addition, the district court might also consider the
18 convenience of the parties, and the availability and relative
19 convenience of other remedies." Dizol, 133 F.3d at 1225 n. 5.
20 Finally, the fact that a lawsuit is one "with no compelling federal
21 interest (e.g., a diversity action)" may also weigh in favor of a
22 stay. Witherspoon, 993 F.Supp.2d 1178, 1183 (C.D. Cal 2014).

23 **III. DISCUSSION**

24 In this case, Plaintiff seeks a judgment that it is not liable
25 to Defendants for any loss incurred as a result of Mr. Calligeros's
26 lawsuit, because the lawsuit falls under the "Insured vs. Insured"
27 exception to the policy. Under that exception, the policy does not
28 cover loss

1 "on account of any Claim . . . brought or maintained by, on
2 behalf of, in the right of or at the direction of any Insured
3 in any capacity . . . unless such Claim . . . is brought or
4 maintained by any former director or officer of the Company
5 solely in their capacity as a securities holder of the Company
6 and where such Claim is solely based upon and arising out of
7 Wrongful Acts committed subsequent to the date such director
8 or officer ceased to be a director or officer of the Company
9 and where such Claim is first made two years subsequent to the
10 date such director or officer ceased to be a director or
11 officer of the Company

12 (Compl., ¶¶ 33-34 & Ex. A, § C(1)(e).)

13 In the alternative, Plaintiff alleges, (Compl., ¶ 35), it is
14 also not required to indemnify "dishonest, deliberately fraudulent
15 or criminal" acts, (Compl., Ex. A, § C(1)(f)), claims that were
16 pending as of the policy continuity date, (id. at § C(1)(k)),
17 claims of which "any of the Insureds" had knowledge before the
18 policy continuity date, (id. at § C(1)(l)), claims based on breach
19 of contract, (id. at § C(2)(a)), and claims based on losses that
20 are uninsurable. (Id. at § B(7).)

21 Considering the factors outlined in Brillhart and Dizol, the
22 Court concludes that this action should be stayed pending the
23 resolution of the state court action. Although a declaratory
24 judgment could clarify the legal relationships between the parties
25 in this matter, it would not necessarily resolve all aspects of the
26 controversy. The state court action would still remain, and it is
27 possible that even if the Court found for Plaintiff in part, the
28 extent of Plaintiff's liability to Defendant might not be known

1 until the state action was concluded - at least not without making
2 factual determinations that would substantially overlap with the
3 state court's factual inquiry. (See Compl., ¶ 38 (seeking "an
4 allocation between covered and uncovered loss" if there is partial
5 coverage).)

6 This is because there are a number of factual questions the
7 Court would be called on to resolve in order to adjudicate
8 Plaintiff's claim for declaratory judgment, many of which would
9 also be material and relevant to the state case. These include
10 when Calligeros ended his time as a director or officer of
11 Nationwide; when the acts leading to his claims took place; whether
12 any Insured knew of the acts or the claims that could arise from
13 them prior to the continuity date; whether any of the acts
14 Calligeros alleges are "dishonest, deliberately fraudulent or
15 criminal"; and whether the alleged acts constituted a breach of
16 contract. As noted above, the danger of conflicting factual
17 determinations militates in favor of a stay.

18 Finally, the Court notes that the state proceeding appears to
19 be set for trial in just three months. (Reply at 2.) Thus, the
20 parties will not be greatly inconvenienced by a stay.

21 The Court therefore finds that a stay is appropriate.

22 **IV. CONCLUSION**

23 Defendant's motion to stay the proceedings pending the
24 resolution of the state court action is GRANTED.

25 IT IS SO ORDERED.

26
27 Dated: June 23, 2015


DEAN D. PREGERSON
United States District Judge